



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/554,373	08/21/2006	David R. Dalton	SP-1721.2 US	4349
20875	7590	05/19/2008		
MICHAEL C. POPHAL EVEREADY BATTERY COMPANY INC 25225 DETROIT ROAD P O BOX 450777 WESTLAKE, OH 44145				
EXAMINER				
MANSKAR, KRISTEN				
ART UNIT		PAPER NUMBER		
2875				
MAIL DATE		DELIVERY MODE		
05/19/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/554,373

Applicant(s)

DALTON ET AL.

Examiner

KRISTEN A. MANSKAR

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 2/14/08 have been fully considered but they are not persuasive. Regarding Applicant's argument that the Booty reference does not disclose every element claimed in the newly amended set of claims, specifically, a lanyard attached to the housing characterized by the lanyard having a proximal end attached to the housing at a distal end, the distal end releasably attached to the housing wherein the proximal end remains attached to the housing wherein detaching the releasably attached distal end from the housing, the Applicant is respectfully advised that the lanyard would be capable of looping around the end of the flashlight device therefore fulfilling the requirement of having the proximal end attached to the housing when detaching releasably attached distal end from the housing.
2. Regarding Applicant's argument that the distal end does not include a hook to engage an aperture, the Applicant is respectfully advised that while the distal end may not be directly connected to the hook, the hook is still connected to the lanyard and distal end as they are formed of a single unit and the present claim does not require a direct connection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 14-22, 24, 26, and 27** are rejected under 35 U.S.C. 102(b) as being anticipated by Booty (Patent 5,558,430), hereafter referred to as Booty.
5. With respect to claim 14, Booty discloses a lighting device having a housing (10) which includes a lamp (14), a battery housing (24) to receive at least one battery (26, 28) and a switch (90) to open and close a circuit between said lamp and terminals of said at least one battery when located in said housing (Column 3, Lines 19-45), said lighting device including a lanyard (32) attached to said housing characterized by said lanyard having a proximal end attached to said housing and a distal end (at character 34), whereby said distal end or a portion of said lanyard is adapted to be releasably attached to said housing (Column 2, Lines 50-53), wherein said proximal end remains attached to said housing when detaching said releasably attached distal end from said housing (Note: the lanyard would be capable of being looped over end of flashlight device, therefore fulfilling the requirement of the claim).
6. Regarding claim 15, Booty discloses the lighting device wherein the lanyard includes a loop of cord (Figure 1, Column 2, Lines 50-51).
7. In reference to claim 16, Booty discloses a lighting device wherein the housing includes a member which will releasably attach said distal end (via aperture and clip 34, Figure 1).
8. Regarding claim 17, Booty discloses a lighting device wherein the member is a hook (34). Note that a hook is defined as a curved piece of metal or other hard substance with the intended purpose of holding or fastening to an object.

9. In regard to claim 18, Booty discloses a lighting device wherein said member includes an aperture (see Figures 1 and 2 at connection 34).
10. With respect to claim 19, Booty discloses a lighting device wherein said distal end includes a hook (34) to engage said aperture (Figure 1; Note claim does not require distal end to be directly connected to said hook).
11. In reference to claim 20, Booty discloses a lighting device wherein said lanyard is comprised of a cable (Column 2, Lines 50-51) which has its proximal end attached to said housing (Figure 1). Note that the proximal end and distal end are both attached to ' said housing at the clip 34.
12. Regarding claim 21, Booty discloses a lighting device wherein said lanyard is attached to said housing at one end thereof (Figure 1).
13. With respect to claim 22, Booty discloses a lighting device wherein said distal end of said lanyard is attached to said housing at or *near* said end (Figure 1).
14. In regard to claim 24, Booty discloses a lighting device wherein the lanyard has a substantially round cross section (Figure 1).
15. Concerning claim 26, Booty discloses a lighting device wherein the proximal end of the lanyard is attached to the housing though an aperture formed in or on the housing (Figures 1 and 2).
16. Regarding claim 27, Booty discloses a lighting device wherein the proximal end of the lanyard includes a capture device (34) which is retained by the aperture (Figure 1).

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. **Claim 23** is rejected under 35 U.S.C. 103(a) as being unpatentable over Booty.

19. While Booty does not explicitly disclose a lighting device wherein the length of the lanyard between its proximal end and the attachment point is adjustable, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide means for adjusting the lanyard length, since it has been held that the provision of adjustability, where needed, involves only ordinary skill in the art. In re Stevens, 101 USPQ (CCPA 1954).

20. **Claims 28-30, 32, and 35-37** are rejected under 35 U.S.C. 103(a) as being unpatentable over Booty.

21. With respect to claim 28, Booty discloses a lighting device comprising a housing (10) which includes a lamp (14) and an adjustable securing apparatus (32); a battery housing (24) to receive at least one battery (26, 28); and a switch (90) to open and close a circuit between said lamp and terminals of said at least one battery when located in said housing (Column 5, Lines 19-45); and a lanyard (32) attached to said housing characterized by said lanyard having a proximal end attached to said housing (Figure 1) and distal end (via clip 34), said distal end being releasably attached to said housing by a securing apparatus (Figure 1).

Art Unit: 2875

22. Booty does not explicitly disclose the securing apparatus as being adjustable.
23. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide means for adjusting the lanyard length, since it has been held that the provision of adjustability, where needed, involves only ordinary skill in the art. In re Stevens, 101 USPQ (CCPA 1954).
24. Regarding claim 29, Booty discloses a lighting device wherein said adjustable securing apparatus comprises a clasp (34). Booty does not explicitly disclose the securing apparatus as being adjustable.
25. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide means for adjusting the lanyard length, since it has been held that the provision of adjustability, where needed, involves only ordinary skill in the art. In re Stevens, 101 USPQ (CCPA 1954).
26. With respect to claim 30, Booty discloses a lighting device wherein the clasp secures said distal end or a portion of the lanyard (Figure 1).
27. Booty does not explicitly disclose the securing apparatus as being adjustable.
28. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide means for adjusting the lanyard length, since it has been held that the provision of adjustability, where needed, involves only ordinary skill in the art. In re Stevens, 101 USPQ (CCPA 1954).
29. Regarding claim 32, Booty discloses a lighting device wherein the securing apparatus clamps the lanyard to the housing (Figure 1).
30. Booty does not explicitly disclose the securing apparatus as being adjustable.

31. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide means for adjusting the lanyard length, since it has been held that the provision of adjustability, where needed, involves only ordinary skill in the art. In re Stevens, 101 USPQ (CCPA 1954).

33. With respect to claim 35, Booty discloses a lighting device wherein the securing apparatus is located on the housing so that, when the lighting device is suspended from said lanyard, light emitted from the lighting device is emitted substantially downward (Column 3, Lines 46-55). Note that the flashlight is adjustable and can be directed in any direction that the user desires.

34. Booty does not explicitly disclose the securing apparatus as being adjustable.

35. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide means for adjusting the lanyard length, since it has been held that the provision of adjustability, where needed, involves only ordinary skill in the art. In re Stevens, 101 USPQ (CCPA 1954).

36. Regarding claim 36, Booty discloses a lighting device wherein the light is emitted in a substantially vertical direction (Column 3, Lines 33-55). Note that the flashlight is adjustable and can be directed in any direction that the user desires.

37. Booty does not explicitly disclose the securing apparatus as being adjustable.

38. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide means for adjusting the lanyard length, since it has been held that the provision of adjustability, where needed, involves only ordinary skill in the art. In re Stevens, 101 USPQ (CCPA 1954).

39. With respect to claim 37, Booty discloses a lighting device comprising (see Abstract): a housing (10) which includes a lamp (14) and a member, said member includes an aperture (see aperture adjacent character 50 in Figure 2); a battery housing (24) to receive at least one battery (26, 28), a switch (90) to open and close a circuit between said lamp and terminals of said at least one battery when located in said housing (Column 3, Lines 19-45); a lanyard (32) having a proximal end attached to said housing and a distal end (Figure 1) that releasably attaches to said housing by said member of said housing (via character 34), independent of said proximal end (note: lanyard would be able to be looped around flashlight device, therefore allowing for the distal end to be attached independent of said proximal end), and wherein said aperture of said housing includes an arm and wherein said lanyard is formed of a loop of flexible material, said proximal end of said lanyard being attached to said arm by looping said lanyard through itself and around said arm (Figure 1).

40. Booty does not explicitly disclose the securing apparatus as being adjustable.

41. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide means for adjusting the lanyard length, since it has been held that the provision of adjustability, where needed, involves only ordinary skill in the art. *In re Stevens*, 101 USPQ (CCPA 1954).

42. **Claims 25, 31, 33, 34, 39, and 40** are rejected under 35 U.S.C. 103(a) as being unpatentable over Booty in view of Case (Patent 5,921,657), hereafter referred to as Case.

43. With respect to claim 25, Booty does not explicitly disclose a lighting device wherein the housing includes a clamping recess adapted to receive the distal end of the lanyard.

44. Case discloses a lighting device wherein the housing includes a clamping recess adapted to receive a distal end of a string (18 b).

45. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the clamping recess of Case in the illumination device of Booty for the benefit of being able to fully secure the lanyard to the device to enable stabilization of the light emitted from the lamp.

46. Regarding claim 31, Booty does not explicitly disclose an adjustable securing apparatus including an over center securing mechanism.

47. Case discloses an adjustable securing apparatus including an over center securing mechanism (Figure 1, characters 20 and 28).

48. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the adjustable securing apparatus and the over center securing mechanism of Case in the illumination device of Booty for the benefit of being able to adjust and secure the light source to enable stabilization of the light emitted from the lamp.

49. In regard to claim 33, Booty does not explicitly disclose a lighting device wherein the adjustable securing apparatus includes a cleat, and said lanyard is made from a material which allows some deformation when compressed so that said cleat can engage said lanyard and hold same from moving in one direction relative to said cleat.

50. Case discloses a lighting device wherein the adjustable securing apparatus includes a cleat (Figure 1), and said lanyard is made from a material which allows some deformation (Column 5, Lines 5-10) when compressed so that said cleat can engage said lanyard and hold same from moving in one direction relative to said cleat (28).

51. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the cleat and the adjustable strap of Case in the lighting device of Booty for the benefit of being able to securing hold and adjust the light source.

52. In reference to claim 34, Booty does not explicitly disclose a lighting device wherein the housing includes a clamping recess adapted to receive said distal end of the lanyard, and said over center clamping mechanism includes a clamping projection adapted to fit within said clamping recess to clamp said lanyard therein.

53. Case discloses a lighting device wherein the housing includes a clamping recess (Figure 1) adapted to receive said distal end of the lanyard, and said over center clamping mechanism includes a clamping projection adapted to fit within said clamping recess to clamp said lanyard therein (28).

54. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the cleat and the adjustable strap of Case in the lighting device of Booty for the benefit of being able to securing hold and adjust the light source.

55. With respect to claim 39, Booty does not explicitly disclose a lighting device wherein said distal end of said lanyard includes an attachment to form a second attachment to said lighting device housing.

56. Case discloses a lighting device wherein said distal end of said lanyard includes an attachment to form a second attachment to said lighting device housing (18 a and 18 b).

57. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the cleat and the adjustable strap of Case in the lighting device of Booty for the benefit of being able to securing hold and adjust the light source.

58. Regarding claim 40, Booty does not explicitly disclose a lighting device wherein said lighting device housing includes a second anchoring aperture to cooperate with said attachment member.

59. Case discloses a lighting device wherein said lighting device housing includes a second anchoring aperture to cooperate with said attachment member (18a and 18b).

60. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the cleat and the adjustable strap of Case in the lighting device of Booty for the benefit of being able to securing hold and adjust the light source.

61. **Claim 38** is rejected under 35 U.S.C. 103(a) as being unpatentable over Booty in view of Blanchard (Patent 4,360,930), hereafter referred to as Blanchard.

62. Booty does not explicitly disclose a lighting device wherein said arm forms part of an anchoring aperture though which a first portion of said loop is passed, said first portion of the loop being looped over said remainder of said lanyard and pulled back through said anchoring aperture to capture said lanyard in said anchoring aperture.

63. Blanchard discloses a lighting device wherein said arm forms part of an anchoring aperture though which a first portion of said loop is passed (Figure 4), said

first portion of the loop being looped over said remainder of said lanyard and pulled back through said anchoring aperture to capture said lanyard in said anchoring aperture (Figure 4).

64. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the anchoring configuration of Blanchard with the lighting device of Booty for the benefit of being able to fully secure the lighting device to a desired object.

Prior Art

65. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Smyly (Patent 5,448,458) discloses a flashlight with multiple attachment points allowing for a proximal and distal ends to be selectively attached.

Conclusion

66. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

67. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 2875

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

68. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTEN A. MANSKAR whose telephone number is (571)270-1220. The examiner can normally be reached on Monday-Friday 7:30a.m.-5p.m..

69. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

70. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KAM/

/Sharon E. Payne/

Primary Examiner, Art Unit 2875